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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/446,298	06/12/2000	DIETER LUBDA	MERCK2047	2130

7590

12/03/2002

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EXAMINER

ROCHE, LEANNA M

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 12/03/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/446,298

Applicant(s)

LUBDA ET AL.

Examiner

Leanna Roche

Art Unit

1771

--Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 November 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1, 2 and 4.

Claim(s) withdrawn from consideration: 3, 5-15.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 2. NOTE: The proposed amendment is drawn to a claim which has been withdrawn from consideration and would require a new search and further consideration.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments are not sufficient to overcome the rejections of record. Specifically, Applicant contends that the Teflon sleeve of WO 94/19687 does not fulfill the pressure-resistant requirement of Applicant's claims. However, any sort of Teflon sleeve will inherently show at least a minimal amount of pressure resistance, and Applicant's claims are not directed to a specific degree of pressure-resistance. Therefore, WO 94/19687 still reads on Applicant's claims.

Applicant's request for withdrawal of finality has been considered but is not found persuasive. Applicant's amendments necessitated the new grounds of rejection because 1) Applicant narrowed the claim by claiming a "ceramic" molding, and 2) in order to present a rejection which was most applicable to the requirements of the broadened claim language, the examiner was forced to amend the rejection because Applicant eliminated the limitations set forth by the primary reference of the original rejection, thus altering the entire scope of the broadened claim.

With regard to Applicant's traversal of the restriction requirement, the examiner has fully established the propriety of the restriction requirement and made the restriction requirement Final in Paper No.12. Therefore, if Applicant wishes to pursue the traversal of the restriction requirement, then a petition is the appropriate course of action.



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